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SUPREME COURT REVERSES DECISION IN AND REMANDS *KAYENTA TOWNSHIP COMMISSION V. WILLIAM AND JODONNA WARD*

WINDOW ROCK, Ariz. – The Navajo Supreme Court reversed a district court decision in *Kayenta Township Commission v. William and Jodonna Ward, No. SC-CV-29-07* and remanded the case for disposition consistent with its decision. The Court concluded that the broad grant of home rule power given to the Kayenta Township by the Navajo Nation includes the right to eject trespassers and file a forcible entry action.

The appeal was filed by the Kayenta Township against the Wards, who occupied business sites and operated three businesses within the Kayenta township boundaries with no lease when the former leaseholder passed away, even though the township's lease ordinance requires all businesses operating within its boundaries to have a business site lease. During their occupation, the Wards did not pay lease-related rents and did not negotiate a lease with the Kayenta Township Commission, claiming that only the Economic Development Committee could negotiate leases.

The lower court had found that the Township did not have the authority to file a possessory action to eject a trespasser from a business site within its boundaries in the absence of a lease and without obtaining authorization from the Attorney General because it did not have final lease approval authority over business site leases.

The Supreme Court stated that the reasoning of the trial court was flawed because it equated final lease approval authority with actual and exclusive possessory right. The Court stated that in Indian trust land matters on the Navajo Nation where several parties are required under federal and tribal law to sign a valid and binding lease, title, ownership, and actual possession do not reside in the same party and even the lease approval authority may be divided between different authorities.

The Court recognized that home rule powers are particularly broad as provided for by the Council. Additionally, township land was specifically withdrawn for the township to be governed under the township's authority "to perform all functions necessary for local self

government.” This necessarily includes the right to eject trespassers who have never signed a lease.

The opinion was signed by Acting Chief Justice Eleanor Shirley and Associate Justice by Designation William Platero with a written concurring opinion by Associate Justice by Designation Irene Toledo. The opinion is available on www.navajocourts.org website.

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